

Recommendations of Establishing a statewide Secure Patient Directory (sSPD)
Submitted to Utah Department of Health
By Utah Digital Health Service Committee
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In healthcare, inaccurate patient demographic information can lead to medical errors, fraud and medical/insurance identity thefts. Trusted identity resolution is costly as well.¹ Utah Digital Health Service Commission received a request from the University of Utah and Intermountain Healthcare to consider a statewide identity solution for health care services in January 7, 2010. Instructed by Executive Director of Utah Department of Health, the Commission established a subcommittee, discussed this issue at several public open meetings over last 18 months, and reached a consensus on following recommendations on July 7, 2011.

The Utah Digital Health Service Committee recommends:

1. **Legal Authority.** The state legislature authorizes the Utah Department of Health to establish the statewide secured patient directory (sSPD) for health services under the Utah Department of Health's general authority.
 - i. sSPD is a secure statewide resource and enabling technology. The purposes of establishing the sSPD include:
 - a) Increase the accuracy and efficiency of electronic identity resolution for health care services
 - b) Facilitate organizations to safely and securely release integrated patient information
 - c) Provide a legal basis for associating healthcare data to a digital identity
 - d) Mitigate risks for participating organizations
 - e) Mitigate the risks for using digital patient identities for purposes of administering clinical and healthcare services
 - f) Assist consumers in the prevention of fraud and medical/insurance identity thefts
2. **Governance.** The legislation establishes a governance framework for sSPD, including
 - i. A statutory governance body to direct, monitor and report the sSPD development and operation
 - ii. The governance body shall
 - a) report to the UDOH Executive Director
 - b) direct sSPD policies and administrative rule making
 - 1) The rule defines the minimal necessary demographic data to disambiguate for the purpose of ID resolution and requirements for the operating contract
 - c) oversee the UDOH informatics staff to develop and manage an operating contract
 - 1) The contract procedure and process shall follow the state regulations and restrictions
 - d) provide an open forum for public input on sSPD.
 - iii. The governance body shall include representatives from consenting contributing entities, need balance between government, public and private sectors.
 - iv. The governance body shall not direct any work beyond available resource for the sSPD or require any responsibility that is not authorized under the legislation.
 - v. The structure of the governance and the voting requirements for governance be published and comment be allowed for changes

¹ A Utah internal study found that it costs approximately \$60 on average to accurately solve one duplicated identity case.

- vi. The governance body may include one representative from each of following organizations²:
 - a) Utah Department of Health (Chair)
 - b) Utah Insurance Department
 - c) One privacy representative
 - d) One general consumer representative
 - e) One representative for people with special health care needs
 - f) One representative for child health
 - g) One representative for behavior health
 - h) Utah Medical Association
 - i) Utah Hospital and Health System Association

Participating organizations with a contribution of more than XXXXX (10,000?) records, including but not limited to:

- j) Intermountain Healthcare
 - k) University of Utah Health System
 - l) Utah Health Information Network
 - m) ...[More participating organizations can be added in the future.]
- vii. Utah Department of Technology Services may be consulted for policy decisions on the sSPD.

3. **Privacy Protection:** sSPD is one of the mechanisms that protects patient rights and privacy through contributing organizations.

- i. Participation of an organization is voluntary.³
- ii. Participating organizations are required to contribute the necessary SPD linkage data elements for all patients in the participating organizations' database.
- iii. Consent for disclosure of patient demographic information to an authorized sSPD user is controlled by the patient and that choice is communicated to the sSPD via the contributing organizations.
- iv. A patient may elect to disclose their patient demographic information from the statewide SPD through a contributing organization.⁴ sSPD is a special type of "Do Not Call List." Even if a patient elects to not disclose, his/her demographic information will stay in the sSPD to enforce the "Do Not Call List" and cannot be disclosed.
- v. The adopting/placement information need special handling and should not be disclosed.
- vi. Family/guardian relationship (especially newborns) needs to be protected.
- vii. Patient-provider relationship needs to be protected.
- viii. sSPD information is not discoverable and has strict limitations of use.

4. **Cost.** Statewide SPD Trusted Framework should be a budget neutral system for the state of Utah.

- i. The sSPD should be financially sponsored by participating organizations when they use the service.
- ii. More specific use cases should be developed and submitted with the legislation proposal.

² The commission emphasizes to have a balanced representation in the governance body to protect the interests of the public and contributing organizations.

³ The commission also discussed whether the sSPD could require mandatory participation to assure adequate legal protection to the participating organization.

⁴ The detailed consent policies and procedures for patients to exercise their election will be decided later and approved by the governance body.

- iii. An operating budget for the sSPD system should be developed and submitted with the legislation proposal.
- iv. Major contributing entities need to evaluate the sSPD value propositions to assess potential returns of investment (ROI) before making their financial commitment.
- v. The governance body has responsibility to support the sSPD's sustainability.

5. Limitations of Use. The sSPD can only be used for:

- i. Identity resolution for health care treatment, payment and operation
- ii. Identity resolution for public health reporting and case investigation
- iii. Identity resolution for coordination of insurance benefits
- iv. Identity resolution for healthcare quality assurance and improvement
- v. Evaluation of the quality and accuracy of identities in the sSPD

6. Relationship with other Master Person Index (MPI) or Secure Patient Directories (SPDs).

- i. All Payer Claim Database will participate in the UDOH MPI.
- ii. The UDOH MPI will be a contributing entity for the sSPD.
- iii. UHIN may contribute the cHIE SPD to the sSPD.
- iv. University of Utah Health System will be a contributing entity for the current sSPD developmental project.
- v. Intermountain Healthcare will be a contributing entity for the current sSPD developmental project.

7. Liability of Using sSPD and its Trust Framework.

The commission recommends to revise existing legal language from immunity of participating in statewide clinical health information exchange (cHIE) for liability of using sSPD and its Trust Framework for the treatment purpose:

- (5) The department, a local health department, a health care provider, a third party payer, or a qualified network is not subject to civil liability for a disclosure of clinical health information if the disclosure is in accordance both with Subsection (3)(a) and with Subsection (3)(b), 3(c), or 3(d).
- (6) Within a qualified network, information generated or disclosed in the electronic exchange of clinical health information is not subject to discovery, use, or receipt in evidence in any legal proceeding of any kind or character.

(H.B. 294 (2010) Lines 235-241, §26-1-37 (5) (6))

8. Operation.

- i. The sSPD operation should be contracted through a Request for Proposal to a *“Qualified network”* that
 - a) is a non-profit organization;
 - b) is accredited by the Electronic Healthcare Network Accreditation Commission, or another national accrediting organization recognized by the department; and
 - c) performs the electronic exchange of clinical health information among multiple health care providers not under common control, multiple third party payers not under common control, the department, and local health departments.

(H.B. 294 (2010) Lines 187-193, §26-1-37 (1) (f) (i) (ii) (iii))

- ii. The sSPD contractor shall have a community-based oversight board to direct the implementation of the sSPD contract
- iii. The sSPD contractor shall have a self-funded financial sustainability plan for the sSPD ongoing operation.